

108TH CONGRESS
1ST SESSION

S. RES. 275

To affirm the Defense of Marriage Act.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 25, 2003

Mr. NICKLES (for himself, Mr. BROWNBACK, Mr. SESSIONS, Mr. BUNNING, Mr. CORNYN, Mr. SANTORUM, and Mr. ALLARD) submitted the following resolution; which was referred to the Committee on the Judiciary

RESOLUTION

To affirm the Defense of Marriage Act.

Whereas, marriage is a fundamental social institution that has been tested and reaffirmed over thousands of years;

Whereas, historically marriage has been reflected in our law and the law of all jurisdictions in the United States as the union of a man and a woman, and the everyday meaning of marriage and the legal meaning of marriage has always been defined as the legal union of a man and a woman as husband and wife;

Whereas, families consisting of the legal union of one man and one woman for the purpose of bearing and raising children remains the basic unit of our civil society;

Whereas, in *Goodridge v. Department of Public Health*, the Supreme Judicial Court of Massachusetts ruled 4 to 3

that the Constitution of the State of Massachusetts prohibits the denial of the issuance of marriage licenses to same-sex couples;

Whereas, the power to regulate marriage lies with the legislature and not with the judiciary and the Constitution of the State Massachusetts specifically states that the judiciary “shall never exercise the legislative and executive powers, or either of them: to the end it may be a government of laws and not of men”; and

Whereas, in 1996, Congress overwhelmingly passed, and President Bill Clinton signed, the Defense of Marriage Act under which Congress exercised its rights under the effects clause of section 1 of Article IV of the United States Constitution: Now, therefore, be it

1 *Resolved*, That it is the Sense of the Senate—

2 (1) Congress should take whatever steps nec-
3 essary to affirm the fact that marriage in the United
4 States shall consist only of the union of one man
5 and one woman;

6 (2)(A) same-sex marriage is not a right, funda-
7 mental or otherwise, recognized in this country; and

8 (B) neither the United States Constitution nor
9 any Federal law shall be construed to require that
10 marital status or legal incidents thereof be conferred
11 upon unmarried couples or groups; and

12 (3) the Defense of Marriage Act is a proper and
13 constitutional exercise of Congress’s powers under
14 the effects clause of section 1 of Article IV and that

1 no State, territory, or possession of the United
2 States, or Indian tribe, shall be required to give ef-
3 fect to any public act, record, or judicial proceeding
4 of any other State, territory, possession, or tribe re-
5 specting a relationship between persons of the same
6 sex that is treated as a marriage under the laws of
7 such State, territory, possession, or tribe, or a right
8 or claim arising from such relationship.

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